

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RYAN M. and CRYSTAL N. BURTON,  
husband and wife,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

CASE NO. 14-CV-5355

ORDER DENYING PLAINTIFFS'  
MOTION TO REMAND

THIS MATTER is before the Court on Plaintiffs' Motion to Remand [Dkt. #10]. The Burtons sued Wells Fargo in Thurston County Superior Court for allegedly violating Washington's Foreclosure Fairness Act and the Washington Consumer Protection Act by failing to mediate in good faith during the statutory foreclosure mediation process. The Complaint seeks actual damages, treble damages pursuant to the CPA, and attorney's fees, but does not state a precise dollar amount. Wells Fargo timely removed, asserting diversity jurisdiction under 28 U.S.C. §§ 1332 and 1441. It points to the Burton's settlement demand of \$80,000 in compensatory damages plus \$20,000 in attorney's fees as evidence that the \$75,000 amount in controversy has been met. The Burtons concede diversity between the parties but argue that the amount in controversy has not been met because the settlement demand was overinflated in

1 anticipation of a low-ball offer from Wells Fargo, and thus not an accurate measure of their  
2 damages.

3 Under *Conrad Associates v. Hartford Accident & Indemnity Co.*, 994 F. Supp. 1196  
4 (N.D. Cal. 1998) and numerous other authorities, the party asserting federal jurisdiction has the  
5 burden of proof on a motion to remand to state court. The removal statute is strictly construed  
6 against removal jurisdiction. The strong presumption against removal means that the defendant  
7 always has the burden of establishing removal is proper. *Conrad*, 994 F. Supp. at 1198. Where  
8 the amount of damages sought by a plaintiff is unclear, defendant must present facts supporting  
9 the jurisdictional amount by a preponderance of the evidence. *Sanchez v. Monumental Life Ins.*  
10 *Co.*, 102 F.3d 398, 403 (9th Cir. 1996); *Gaus v. Miles*, 980 F.2d 564, 567 (9<sup>th</sup> Cir. 1992) (citation  
11 omitted); 28 U.S.C. § 1332(a). Thus, defendant must demonstrate that it is “more likely than  
12 not” that the amount in controversy exceeds \$75,000. *Sanchez*, 102 F.3d at 404. Federal  
13 jurisdiction must be rejected if there is any doubt as to the right of removal. *Gaus*, 980 F.2d at  
14 566. A settlement letter that reasonably reflects an estimate of a plaintiff’s claim is relevant  
15 evidence in determining the amount in controversy. *Cohn v. Petsmart, Inc.*, 281F.3d 837, 840  
16 (9th Cir. 2002).

17 Wells Fargo primarily relies on the \$100,000<sup>1</sup> settlement letter to demonstrate that the  
18 amount in controversy requirement has been satisfied. It has presented additional evidence  
19 demonstrating that the value of the property at issue is \$114, 200, and the outstanding balance on  
20 the Burton’s loan is \$238,784.01. The Burtons have not offered any evidence to demonstrate that  
21 the true amount in controversy is under \$75,000; they merely contend that damages are “well  
22 below the \$75,000 threshold.” Since each of the values in evidence exceeds \$75,000, Wells  
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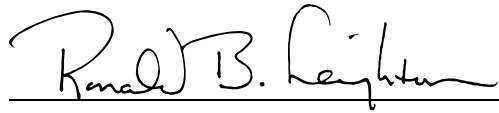
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24 <sup>1</sup> This amount includes the \$80,000 damage request plus the \$20,000 in attorney’s fees.

1 Fargo has met its burden of showing that it is more likely than not that the amount in controversy  
2 is over \$75,000. Plaintiffs' Motion for remand is **DENIED**.

3 IT IS SO ORDERED.

4 Dated this 21<sup>st</sup> day of July, 2014.

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7 RONALD B. LEIGHTON  
8 UNITED STATES DISTRICT JUDGE  
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